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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,582	07/14/2004	Troy Clutton	010100-120	9318
21836	7590	05/05/2006	EXAMINER	
HENRICKS SLAVIN AND HOLMES LLP			VASUDEVA, AJAY	
SUITE 200			ART UNIT	
840 APOLLO STREET			PAPER NUMBER	
EL SEGUNDO, CA 90245			3617	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/501,582	Applicant(s) CLUTTON ET AL.	
	Examiner Ajay Vasudeva	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30, 32-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-30 and 32-46 are rejected under 35 U.S.C. 102(b) as being anticipated by AU 9170912 A (WEBERLING).

Re independent claims 1, 12, 14, 35, 38 and 42, Weberling shows a fin assembly, having a larger fin [12] and a smaller fin [16] extending from a base [15], the fins having respective primary and secondary leading edges, as well as primary and secondary trailing edges. The base and the fins are integrally formed, wherein the base extends longitudinally between the leading primary edge and the trailing secondary edge. The leading and trailing edges of the fins are aligned. The trailing primary edge and the leading secondary edge are joined by an intermediate arcuate edge defined by the base. The fins include respective pairs of opposite faces that extend between the leading and trailing edges.

Re the newly added limitation “the smaller fin trailing the larger fin” in the newly amended claims 1, 12, 14, 35, 38 and 42, consider the following two scenarios.

Scenario 1: It is first noted that the relative positioning of the smaller fin with respect to the larger fin depends entirely on the orientation of the fin assembly. In the present case, the fin assembly of Weberling is capable of being installed reversibly on a surfboard or any flotation device. If installed in such manner, the smaller fin would trail the larger fin. In such orientation, however, it is acknowledged that the trailing smaller fin would curve toward the larger fin, rather than away from it.

Scenario 2: Alternatively, applicant may additionally note that board devices used in watersports are often subjected to propulsion forces in both forward as well as rearward directions. For example, when negotiating a steep wave, a forward moving surfboard may first stall and then begin to move backward. The conventionally installed fin of Weberling, under such circumstance, would experience a reverse motion, wherein the smaller fin would trail the larger fin.

In either one of the above-described scenarios, the fin assembly of Weberling would meet the limitation "smaller fin trailing the larger fin".

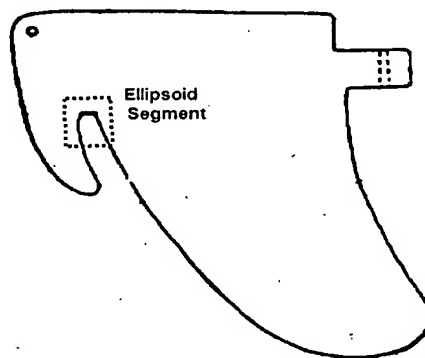
With respect to above described scenario 1, the forwardly disposed edge of larger fin is the leading primary edge, and the forwardly disposed edge of smaller fin is the leading secondary edge. Similarly, the rearwardly disposed edge of larger fin is the trailing primary edge, and the rearwardly disposed edge of smaller fin is the trailing secondary edge.

Re claim 5, the base extends longitudinally between the leading primary edge and the trailing secondary edge.

Re claim 6, the trailing primary edge and the leading secondary edge are joined by an intermediate arcuate edge defined by the base.

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Re claim 7, the arcuate edge can be arbitrarily assumed to span a segment that is longer vertically than horizontally, thereby defining an ellipsoid shape. In such case, the arcuate edge would have varying radius.



Re claim 13, the leading primary edge is curved substantially complementarily to the leading secondary edge.

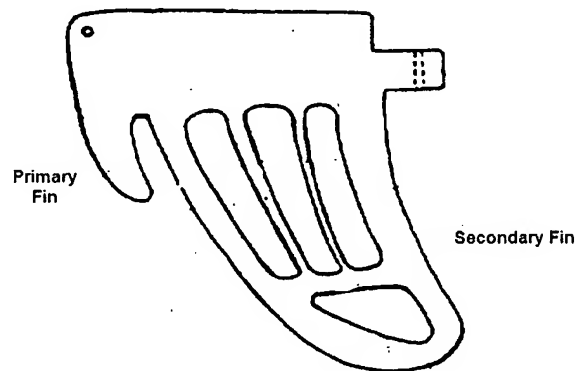
Re claim 16, the fins are made of aluminum, and therefore, are inherently capable of certain degree of deformation if exposed to extreme hydrodynamic forces during use.

Re claim 35, a sectional area of the feathered portion appears to be greater than 0.2X of the combined total sectional area defined by the base, the primary fin and the secondary fin.

Re claims 36 and 37, the conventionally installed fin assembly on a surfboard, as disclosed by Weberling, would meet all requirement of the claims under conditions described in scenario 2.

Re claims 38-41, the steps recited in the "*method of manufacturing*" claims are inherent in the construction of the fin. The newly added "*method of use*" limitation "**such that in use the smaller fin trails the larger fin**" is not a manufacturing step, and therefore has not been accorded any patentable weight. However, even if such limitation were to be given weight, the condition described in scenario 2 above would satisfy such limitation.

Alternatively, regarding claims 17-30 and 32-34, the smaller fin is considered to be the primary fin and the larger fin is considered to be the secondary fin. The secondary (larger) fin extends rearwardly from a rear of the base.



Re claim 22, if the fin is tilted 90 degrees clockwise, the secondary fin would be disposed under the leading and trailing edges of the primary fin.

Re claim 24, the trailing edge (of the primary fin) is feathered – or curved – in an area intermediate the secondary fin and the leading edge (of the primary fin).

Re claim 26, see explanation provided for claim 7 above.

Response to Arguments

3. Applicant's arguments filed 2/13/2006 have been fully considered but they are not persuasive.

102(b) rejection of claims 1-30 and 32-46 based on AU 9170912 A (Weberling)

(i) **Arguments**: Regarding claims 1, 12, 14, 35, 38 and 42, applicant has argued that Weberling does not show “the smaller fin trailing the larger fin”, as required by the newly amended claims.

Response: As described in the rejection in ¶2 above, consider a scenario 1 in which the fin assembly of Weberling is be reversibly mounted on a surfboard or any other flotation device. In such case, the smaller fin would trail the larger fin.

Under scenario 2 , alternatively, if a board device is subjected to propulsion in a rearward direction, the conventionally installed fin of Weberling would also undergo a similar reverse motion, wherein the smaller fin would trail the larger fin.

In either one of the above-described scenarios, the fin assembly of Weberling would meet the limitation “smaller fin trailing the larger fin”.

(ii) **Arguments**: Regarding claims 38-41, applicant has further argued that Weberling does not disclose “in use the smaller fin trails the larger fin”, as required by the newly amended claim 38.

Response: Claims 38 is directed to a method of manufacturing. Because the newly added “*method of use*” limitation is not a manufacturing step, it has not been accorded any patentable weight.

(iii) **Arguments**: Regarding claims 17-30 and 32-34, applicant has argued that Weberling does not disclose the secondary fin extending rearwardly from a rear of the base.

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Response: When the smaller fin is considered to be the primary fin and the larger fin is considered to be the secondary fin, the secondary (larger) fin extends rearwardly from a rear of the base.

*** **Note:** See the rejection in ¶2 above for a detailed description. All arguments regarding dependent claims have been individually addressed in the above rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617


4/26/06
AJAY VASUDEVA
PATENT EXAMINER